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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

WAITS, ALAN B

ART UNIT

PAPER NUMBER

3682

MAIL DATE

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08/05/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/519,864	Applicant(s) JACKSON, GRAEME ANDREW	
	Examiner ALAN B. WAITS	Art Unit 3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28,30-35,37-43,45-56 and 58-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28,30-35,37-43,45-56 and 58-68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 65 and 67 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 65 recites the limitation “second element is displaced”. It is unclear what displaces the second element.

Claim 65 recites the limitation “when”. Use of the term “when” renders the claim unclear. The term “when” presumes an action to take place but no where previously in the claim is such action said to actually occur, or will occur. What structure allows for this function?

Claim 67 recites the limitation “selectively”. It is unclear how an element can engage selectively. What structure allows for the selection?

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

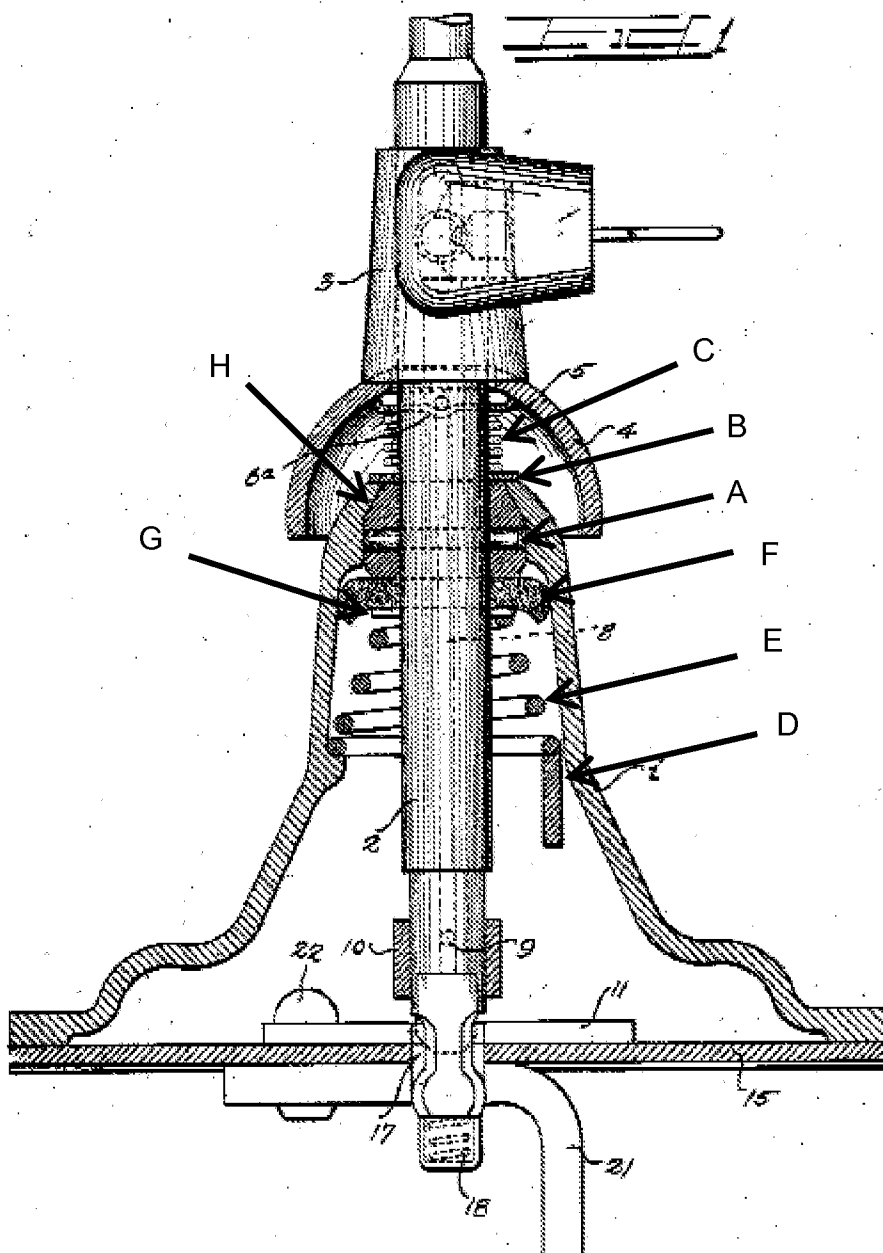
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 28, 30-35, 37-42, 45-54, 56, 58-62, and 64-68 rejected under 35 U.S.C. 102(b) as being anticipated by Blood et al USP 1780898.

Blood discloses a similar device comprising:

Re clm 28:

- a housing (i, below)
- a lever (2, below) having a longitudinal axis
- said lever being at least partially disposed within said housing (as shown below)
- a pivoting member (A, see below) in operational communication with said lever [being adapted to facilitate pivoting of said lever into a plurality of positions]
- a biasing member (4, 5, B, C; below) disposed proximate said lever
- said biasing member includes a first element (5, fig 2) and a second element (4, fig below) [adapted to be displaceable in a direction substantially parallel to said longitudinal axis of said lever]
- a third element (B, below) [being adapted to be fixed relative to said lever]
- a biasing element (C, below) disposed intermediate said second element and said third element
- [said biasing member applying a biasing force to said lever moving said lever into at least one biased position]



Re clm 30:

- [Said biasing member is operable to bias said lever into at least one biased neutral position]

Re clm 31:

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- Said biasing member is disposed on said lever coaxially therewith (as shown in fig above)

Re clm 32:

- Said biasing member operates in a generally non-traverse direction relative to said longitudinal axis of said lever (as shown in above)

Re clm 33:

- [Said biasing member applies a biasing force operable to oppose displacement of said lever in any direction]

Re clm 34:

- Said housing includes a longitudinal axis (direction of lever 2, above)
- Said applied biasing force is generally in a direction of said longitudinal axis of said housing (as shown above)

Re clm 35:

- In a biased position, said longitudinal axis of said lever is generally parallel to a direction of said biasing force (as shown above)

Re clm 37:

- Said lever extends through said first element, said second element, said third element, and said biasing element from a generally coaxial arrangement therewith (as shown above)

Re clm 38:

- Said biasing element is a spring (as shown by C, fig above)

Re clm 39:

- Said first element is adapted to engage with a stop means (D, above)

Re clm 40:

- [Said stop means is operable to prevent pivotal displacement of said first element in at least one direction]

Re clm 41:

- Said stop means is disposed on an inner wall of said housing (as shown above)

Re clm 42:

- Said stop means includes a region of reduced diameter of said inner wall (as shown by D above)

Re clm 45:

- A second biasing member (E, F, G; above)

Re clm 46:

- Said second biasing member is substantially the same as said biasing member (as shown above)

Re clm 47:

- a housing (i, above)
- a lever (2, above) having a longitudinal axis
- said lever being at least partially disposed within said housing (as shown above)

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- a pivoting member (A, above) in operational communication with said lever being [adapted to facilitate pivoting of said lever into a plurality of positions]
- a biasing member (4, 5, B, C; below) disposed proximate said lever
- [said biasing member applying a biasing force to said lever moving said lever into at least one biased position]
- a second biasing member (E, F, G; above)
- said pivoting member is disposed on said lever between said biasing member and said second biasing member (as shown above)

Re clm 48:

- said pivoting member further comprises a spherical element (H, above)

Re clm 49:

- Said spherical element is disposed in a retaining cup (part of housing that holds H, above) [and is operable to pivotally move therein]

Re clm 50:

- Said spherical element is fixed to said lever thereby forming a pivot point on said lever (as shown above)

Re clm 51:

- said spherical element is fixed to said lever by a retaining pin (A, above)

Re clm 52:

- Said spherical element forms an integral part of said lever thereby forming a pivot point on said lever (as shown above)

Re clm 53:

- Said lever extend through said spherical element to form an arrangement generally coaxial therewith (as shown by 2 and H, above)

Re clm 54:

- Said spherical element is formed from a plastic or metallic material composition (as shown by H in fig above)

Re clm 56:

- a housing (i, above) having a housing longitudinal axis
- a retaining cup (part of housing that holds H, above) disposed within said housing
- a lever (2, above) having a first end (top of 2, above), a second end (bottom of 2, above), and a lever longitudinal axis
- said lever being at least partially disposed within said housing (as shown below)
- a pivoting member (A, see above) disposed in said retaining cup and being in operational communication with said lever
- [said pivoting member being adapted to facilitate pivoting of said lever into a plurality of positions]
- a biasing member (4, 5, B, C; below) disposed proximate said lever
- said biasing member includes a first element (5, fig 2) and a second element (4, fig below) [adapted to be displaceable in a direction substantially parallel to said longitudinal axis of said lever]

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- a third element (B, below) [being adapted to be fixed relative to said lever]
- a biasing element (C, below) disposed intermediate said second element and said third element
- [said biasing member applying a biasing force to said lever moving said lever into at least one predetermined position]

Re clm 58:

- Said lever extends through said first element, said second element, said third element, and said biasing element from a generally coaxial arrangement therewith (as shown above)

Re clm 59:

- Said first element is adapted to engage with a stop member (D, above)

Re clm 60:

- [Said stop member prevents pivotal displacement of said first element in at least one direction] (as shown above)

Re clm 61:

- Said stop member is disposed on an inner wall of said housing (D, as shown above)

Re clm 62:

- Said stop member is in operational communication with said lever (as shown above)

Re clm 64:

- said second element engages said first element and slideably engages said lever (as shown above)
- said third element is fixedly attached to said lever (as shown above) [for concurrent movement therewith]

Re clm 65:

- [said second element is displaced axially along a longitudinal length of said lever when said lever is displaced from said at least one biased position]

Re clm 66:

- [Said biasing element exerts a biasing force against said first and third elements urging the two elements away from one another]

Re clm 67:

- [Said second element selectively engages said third element]

Re clm 68:

- [Said second element slideably engages said lever and said biasing member applies a biasing force to said second element urging said second element into contact with said first element] (as shown above)

5. Claims 28, 39 and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Blood et al USP 1780898.

Blood discloses a similar device comprising:

Re clm 28:

- a housing (i, above)

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- a lever (2, above) having a longitudinal axis
- said lever being at least partially disposed within said housing (as shown above)
- a pivoting member (A, see above) in operational communication with said lever [being adapted to facilitate pivoting of said lever into a plurality of positions]
- a biasing member (4, 5, B, C; above) disposed proximate said lever
- said biasing member includes a first element (5, fig 2) and a second element (4, fig above) [adapted to be displaceable in a direction substantially parallel to said longitudinal axis of said lever]
- a third element (B, above [being adapted to be fixed relative to said lever])
- a biasing element (C, above) disposed intermediate said second element and said third element
- [said biasing member applying a biasing force to said lever moving said lever into at least one biased position]

Re clm 39:

- Said first element is adapted to engage with a stop means (top of H, above)

Re clm 43:

- Said stop means is disposed on said lever (H is on 2, above)

Regarding the functional recitation(s) in the claim(s) above denoted by the “[]” the examiner notes while features of an apparatus may be recited either structurally or

functionally, claims directed to >an< apparatus must be distinguished from the prior art in terms of structure rather than function. The reference discloses all the claimed structural limitations and therefore anticipates the claim. See MPEP 2114. Additionally, the apparatus is capable of performing the claimed functions.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 55 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blood et al USP 1780898 as applied to claims 28 and 56 above, and in view of Kessmar USP 4104929.

Blood discloses all the claimed subject matter as described above.

Blood does not disclose a pivoting member comprising a plurality of pins to engage with each other to form a pivotable arrangement (re clm 55 and 63).

Kessmar teaches a pivoting member (42, fig 2) comprising a plurality of pins (55, 49, fig 2) adapted to engage with each other to form a pivotable arrangement for the purpose of providing a secure fit (cl 4, lines 3-9).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Blood and use a pivoting member comprising a plurality of pins adapted to engage with each other to form a pivotable arrangement for the purpose of providing a secure fit.

Allowable Subject Matter

8. The indicated allowability of claim 47 is withdrawn in view of the newly discovered reference(s) to Blood et al USP 1780898. Rejections based on the newly cited reference(s) are described above.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lapsley USP 2136697 discloses a similar device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALAN B. WAITS whose telephone number is (571)270-3664. The examiner can normally be reached on Monday through Friday 7:30 am to 5 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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/Alan B Waits/
Examiner, Art Unit 3682

/Richard WL Ridley/
Supervisory Patent Examiner, Art Unit 3682